

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**M&C SAATCHI PR LLP,**

Civil Action No. 16-cv-8866

Plaintiff,

v.

**COMPLAINT**

**BEER FROST, INC. and  
STEPHEN GIORDANO,**

Defendants.

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M&C SAATCHI PR LLP ("M&C"), by and through its attorneys, O'Connell and Aronowitz, F. Matthew Jackson, Esq., of counsel, as and for its complaint against Beer Frost, Inc. and Stephen Giordano, states and alleges as follows:

**PARTIES**

1. M&C, at all relevant times, was and is a limited liability partnership organized under the laws of the State of Delaware, having a principal place of business at 625 Broadway, 6<sup>th</sup> Floor, New York, New York 10012.

2. Upon information and belief, Defendant Beer Frost, Inc. ("Beer Frost") is a corporation organized and existing under the laws of the state of Florida, having a place of business at 6416 Parkland Drive, Sarasota, Florida 34243.

3. Upon information and belief, Defendant Stephen Giordano ("Giordano") is an individual residing in Virginia, having an office address at 43804 Central Station Drive, Suite 241, Ashburn, Virginia 20147.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction to entertain this action under 28 U.S.C. § 1332, because there is complete diversity of citizenship between Plaintiff and Defendants and the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

5. Venue is proper in the United States District Court for the Southern District of New York under 28 U.S.C. § 1391(a) as this is the district in which a substantial part of the events or omissions giving rise to the claims occurred.

### **BACKGROUND**

6. M&C incorporates the allegations of the preceding paragraphs of its Complaint as if fully restated herein.

7. On or about December 9, 2015, M&C and Beer Frost entered into an agreement (the "Agreement") whereby M&C would provide certain public relations services, including, but not limited to, research, brand and website re-development, integrated marketing planning and activation (the "Services"). A true and correct copy of the Agreement is attached hereto as **Exhibit "A"**.

8. The Services related to a product originally known as "Beer-Frost", now commonly known as and being marketed for sale as "Ice-Frost". Ice Frost, according to Beer Frost's existing website, is a combination of environmentally safe minerals that when added to the ice in a cooler, will take the temperature down from 30 degrees to minus 10 degrees.

9. M&C performed the Services and delivered invoices to Beer Frost and Giordano seeking payment of the balance due and owing pursuant to the Agreement.

10. Despite multiple representations that payment would be forthcoming, Beer Frost and Giordano have failed to make payment for the Services, in breach of the Agreement, causing

Plaintiff damages. True and correct copies of the above referenced invoices are attached hereto as **Exhibit "B"**.

11. On September 13, 2016, M&C delivered a Demand for Payment to Beer Frost and Giordano, demanding payment of the balance due in the amount of \$1,053,270.57 as of September 13, 2016. A true and correct copy of the Demand for Payment is attached hereto as **Exhibit "C"**.

12. Beer Frost and Giordano failed and/or refused to comply with M&C's Demand for Payment and have failed to make payment to M&C pursuant to the Agreement.

13. Giordano, through communications with M&C, insured that Beer Frost would comply with its payment obligations to M&C. M&C relied upon Giordano's representations to its detriment.

**FIRST CAUSE OF ACTION AGAINST  
DEFENDANT BEER FROST, INC. FOR BREACH OF CONTRACT**

14. M&C incorporates the allegations of the preceding paragraphs of its Complaint as if fully restated herein.

15. A contractual relationship has existed between M&C and Beer Frost pursuant to the Agreement.

16. M&C has duly performed and fulfilled all terms and conditions of said Agreement and provided the Services to Beer Frost pursuant to the Agreement.

17. Beer Frost breached the Agreement by, among other things, failing and/or otherwise refusing to make payment for the Services and expenses rendered to Beer Frost, causing M&C damages.

18. As a result of the foregoing, Beer Frost is liable to M&C for damages in the sum of \$1,053,270.57 as of September 13, 2016, together with contractual late charges, or such other amount which shall be proven at trial.

**SECOND CAUSE OF ACTION AGAINST  
DEFENDANT BEER FROST, INC. FOR AN ACCOUNT STATED**

19. M&C incorporates the allegations of the preceding paragraphs of its Complaint as if fully restated herein.

20. M&C has rendered true statements of amounts due and owing on said account to Beer Frost.

21. Upon information and belief, Beer Frost received such statements of account and did not object to the statements of account.

22. As a result of the foregoing, an account with a principal balance of \$1,053,270.57 as of September 13, 2016, has been stated and is due and owing to M&C from Beer Frost.

23. As a result of the foregoing, Beer Frost is liable to M&C for damages in the sum of \$1,053,270.57 as of September 13, 2016, together with contractual late charges, or such other amount which shall be proven at trial.

**THIRD CAUSE OF ACTION AGAINST  
DEFENDANT GIORDANO FOR BREACH OF CONTRACT**

24. M&C incorporates the allegations of the preceding paragraphs of its Complaint as if fully restated herein.

25. Giordano personally insured that the payment delay would be rectified and that Beer Frost would comply with its payment obligations to M&C.

26. Giordano failed to facilitate payment to M&C and M&C relied upon Giordano's representations to its detriment.

27. As a result of the foregoing, Giordano is liable to M&C for damages in the sum of \$1,053,270.57 as of September 13, 2016, together with contractual late charges, or such other amount which shall be proven at trial.

**WHEREFORE**, Plaintiff, M&C Saatchi PR LLP, demands judgment for damages as follows:

(a) On Plaintiff's First Cause of Action against Defendant Beer Frost for breach of contract in the sum of \$1,053,270.57 as of September 13, 2016, together with contractual late charges, or such other amount which shall be proven at trial;

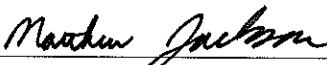
(b) On Plaintiff's Second Cause of Action against Defendant Beer Frost for an account stated in the sum of \$1,053,270.57 as of September 13, 2016, together with contractual late charges, or such other amount which shall be proven at trial;

(c) On Plaintiff's Third Cause of Action against Defendant Giordano for breach of contract in the sum of \$1,053,270.57 as of September 13, 2016, together with contractual late charges, or such other amount which shall be proven at trial;

(d) Together with the costs and disbursements of this action; and

(e) Such other further and different relief as this Court deems just and proper.

Dated: November 15, 2016

  
F. Matthew Jackson, Esq. (fj9396)  
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